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REMARKS

Special Circumstances

In the Office action mailed December 31, 2003, the Examiner asked applicant to point out any material information from the co-pending applications listed as parents to the instant application if the criteria for materiality applies and if the examination record provides reason for applicant to believe that the Examiner has not considered such information. Applicant is uncertain what the Examiner is requesting. Applicant has previously identified the applications and believes that identification satisfies its duty of disclosure. Nevertheless, in an attempt to respond to the request, applicant has attached to the end of this document as "Attachment 1" a list of its patent applications and its one Taiwanese patent (the list does not include the national phase filings of the listed PCT application). None of the listed applications have yet issued as patents. The Examiner is requested to inform applicant if further information concerning any of these applications is needed.

Double Patenting

In the Office action mailed December 31, 2003, the Examiner stated: "It should be noted that for the purpose of this office action the below rejections under 35 U.S.C. 101 (double patenting) are being made under the assumption that the applications were not commonly owned at the time of applicant's invention." Office Action, 2. Applicant is uncertain what the Examiner means by this statement. The double patenting rejection set forth in the Office Action was made under the judicially created doctrine of obviousness-type double patenting, not under 35 U.S.C. 101, so applicant does not understand why reference was made to that statute. Additionally, as far as applicant is

aware, obviousness-type double patenting rejections are made between commonly owned applications, so applicant does not understand why the assumption was made that the applications were not commonly owned. The Examiner is requested to inform applicant if further information concerning these points is needed.

The Examiner further stated: "Additionally, it should be noted that the below double patenting rejections are based upon known and available co-pending applications and although it is believed that all appropriate rejections have been made, Applicant's help in determining all appropriate double patenting rejections with all of Applicant's applications is requested because of the large number of similar applications." Office Action, 2. Applicant is uncertain what help the Examiner is requesting. To the extent the Examiner is asking for identification of applicant's co-pending applications, then, as stated above, applicant has attached to the end of this document a list of its patent applications and its one Taiwanese patent. Additionally, to the extent that applicant is aware of any double patenting issue, applicant will take some action to address or defer the issue, such as by amending or canceling claims, by traversing the rejection, by filing a terminal disclaimer, or by taking some other action. The Examiner is requested to inform applicant if further information concerning this issue is needed.

The Examiner provisionally rejected claims 1 and 3-5 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 14-20 of co-pending Application No. 10/050,085. The Examiner said the cited claims "are not patentably distinct from each other because they differ in claim terminology but in [sic] encompass the same subject matter." That rejection is traversed.

Claims 1 and 3-5 in the present application require "a safety system including one or more support arms" with a brake member "coupled to the one or more support arms." The support arms are "configured to move the brake member in a substantially arcuate path about the elongate central axis of the arbor." Claims 14-20 from the cited co-pending application do not teach those limitations. Instead, claims 14-19 require only "a safety system including at least one brake member ... where the brake member is coupled to move in an arcuate path that is generally concentric with the blade as the housing is moved toward and away from the cutting zone." Claim 20 requires "means for moving the brake member around the perimeter of the blade." Nothing in any of those claims teaches or suggests the specific construction of a brake member coupled to a support arm, as required by claims 1 and 3-5 in the present application. Additionally, nothing in any of those claims suggests the specific limitation of a support arm configured to move the brake member as required by claims 1 and 3-5 in the present application. Because the cited claims of the co-pending application fail to teach or suggest all the claimed limitations, they cannot by themselves support a conclusion of obviousness. MPEP §2143.03. Accordingly, the obviousness-type double patenting rejection should be withdrawn.

It is also important to note that the disclosure of the co-pending application cited by the Examiner may not be used as prior art when deciding whether an obviousness-type double patenting rejection is proper. The MPEP explains that "[w]hen considering whether the invention defined in a claim of an application is an obvious variation of the invention defined in the claim of a patent, the disclosure of the patent may not be used as prior art." MPEP §804 at 800-22.

Statement Under 37 CFR 1.78(c)

The Examiner required applicant under 35 USC §103(c) and 37 CFR 1.78(c) to state whether the inventions claimed in the application cited as the bases for the double patenting rejection was commonly owned at the time the invention claimed in the present application was made. In response, SD3, LLC states that the inventions claimed in the present application and in the co-pending application cited by the Examiner were commonly owned or subject to an obligation of assignment to SD3, LLC at the time the inventions were made. The undersigned is authorized to make this statement on behalf of SD3, LLC. By making this statement applicant does not concede that the cited claims are conflicting claims or that the double patenting rejection is proper.

Claim Rejections – 35 USC §102(f)

The Examiner rejected claims 1 and 3-7 under 35 U.S.C. §102(f) by saying applicant did not invent the claimed subject matter. Specifically, the Examiner said, "It is not clear who actually invented the subject matter of claims 1 and 3-7 because each of the above co-pending applications [referring to the co-pending application cited to support the double patenting rejection] have different inventive entities." (Office Action, 6.) This rejection is traversed.

The inventors named in the present application are, to the best of applicant's knowledge, the inventors of the subject matter claimed in the present application. Multiple individuals are named as inventors because each individual made a contribution to the subject matter of at least one claim of the application, even though each individual may not have made the same type or amount of contribution and even though each individual may not have made a contribution to the subject matter of every

claim in the application. Different inventive entities are named in the co-pending application cited by the Examiner because another individual made contributions to the subject matter of at least one claim of that application. The fact that inventive entities may be different in various applications does not mean that inventorship is incorrect in the present application. Often applications with overlapping subject matter but with additional disclosures and differing sets of claims have different inventive entities. That is the situation here. The present application and the co-pending applications cited by the Examiner have disclosures and claims that differ and that require the naming of different inventive entities. Thus, there is no inconsistency in inventorship and applicant requests the rejection under 35 U.S.C. 102(f) be withdrawn.

Claim Rejections – 35 USC §103

The Examiner rejected claim 1 under 35 U.S.C. §103(a) as obvious in light of U.S. Patent No. 5,724,875 to Meredith et al. in view of U.S. Patent No. 3,785,230 to Lokey, U.S. Patent No. 5,086,890 to Turczyn et al., and U.S. Patent No. 4,466,233 to Thesman. (Office Action, 6.) That rejection is traversed. (The Examiner did not reject claims 3-7 as obvious under 35 U.S.C. §103(a).)

Claim 1 describes a miter saw with "a safety system including one or more support arms and a braking mechanism having at least one brake member adapted to engage the blade, where the brake member is coupled to the one or more support arms, and where the one or more support arms are configured to move the brake member in a substantially arcuate path about the elongate central axis of the arbor." Nothing in the cited references suggests or teaches this limitation.

Meredith discloses a blade guard assembly for a sliding compound miter saw. Meredith does not disclose any type of braking mechanism or any brake member adapted to engage the blade of a miter saw. Lokey discloses a system that tries to detect when a person approaches too close to the blade of a saw. If the system detects that proximity, then a brake tries to stop the blade. Lokey show two types of brakes: one with cam members that move into engagement with the sides of a blade, and the other with a rubber wedge that slides into engagement with the blade. Lokey does not disclose a brake member coupled to a support arm configured to move the brake member about the axis of an arbor. Turczyn discloses a brake mechanism for a lawn mower that includes an arm with a brake pad that moves into contact with a brake surface, much like a caliper brake on a bicycle. Thesman discloses a drive assembly and brake for a lawn mower that includes a yoke assembly to move a clutch ring from a first position where the clutch ring presses against a braking surface to a second position where the clutch ring presses against a drive surface. Turczyn and Thesman do not disclose a brake member on a support arm configured as described in applicant's claim 1. Because the cited references fail to teach or suggest all the limitations of claim 1, they cannot by themselves support a conclusion of obviousness. MPEP §2143.03.

Moreover, there is no teaching, motivation or suggestion to combine the cited references to arrive at the miter saw of claim 1. None of the cited references teach or suggest any reason to have a brake member coupled to a support arm that is configured to move the brake member about the axis of an arbor in a miter saw. Why would a person of ordinary skill in the art think to mount the brake pads of Turczyn or Thesman on a support arm configured to move the brake in a substantially arcuate path

around the axis of the arbor? There is no need to do that in the saws shown in Lokey or in the lawn mowers shown in Turczyn and Thesman because those devices do not operate like a miter saw. The cited references also fail to identify any benefit from configuring a saw as set forth in applicant's claim 1. It is only applicant's disclosure that teaches a reason to have that configuration and the benefits of doing so. Without a teaching, suggestion or motivation in the prior art to combine the cited references, a conclusion of obviousness is improper. MPEP §2143.01.

Additionally, how could the mechanisms shown in Turczyn and Thesman be incorporated into the saw shown in Meredith so that there is some reasonable expectation that the resulting combination would work? The mechanism shown in Turczyn requires a brake pad to press against a brake surface separate from a blade. There is no such brake surface in a miter saw, so how would that work? The clutch ring shown in Thesman moves between a first position where it engages a brake surface and a second position where it engages a drive surface. How could that mechanism be incorporated into a miter saw that does not have similar brake and drive surfaces? These differences between miter saws and lawn mowers show that there is no reasonable expectation that the mechanisms in the cited references could be successfully incorporated into the miter saw shown in Meredith, and therefore a conclusion of obviousness is improper. MPEP §2143.02.

In fact, miter saws are so different from lawn mowers that Turczyn and Thesman constitute non-analogous art and therefore should not be considered in an obviousness analysis. MPEP §2141.01. Turczyn and Thesman are non-analogous because lawn

mowers are outside the field of woodworking equipment and because of the structural differences between miter saws and lawn mowers.

For all of these reasons, applicant asserts that the obviousness rejection of claim 1 should be withdrawn.

Withdrawn Claims 2, 8 & 9

Applicant requests that withdrawn claims 2, 8 and 9 be reinstated if claim 1 is allowed because they depend from claim 1.

CONCLUSION

Applicant has addressed the Examiners issues concerning other pending applications, double patenting and inventorship. Additionally, the Meredith, Lokey, Turczyn and Thesman references fail to disclose all the limitations of claim 1, and there is no teaching, suggestion or motivation to combine those references, so the obviousness rejection of that claim should be withdrawn. Applicant asserts that the pending claims are allowable and applicant requests that the application proceed to issuance. Please call the undersigned with any questions.

Respectfully submitted,

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Attachment 1

Title	Serial No./ Publication No.	Filing Date/ Publication Date
Detection System For Power Equipment	09/929,426 2002-0017176-A1	August 13, 2001 February 14, 2002
Contact Detection System For Power Equipment	60/225,200	August 14, 2000
Apparatus And Method For Detecting Dangerous Conditions In Power Equipment	09/929,221 2002-0017336-A1	August 13, 2001 February 14, 2002
Apparatus And Method For Detecting Dangerous Conditions In Power Equipment	60/225,211	August 14, 2000
Firing Subsystem For Use In A Fast-Acting Safety System	09/929,240 2002-0020263-A1	August 13, 2001 February 21, 2002
Firing Subsystem For Use In A Fast-Acting Safety System	60/225,056	August 14, 2000
Spring-Biased Brake Mechanism For Power Equipment	09/929,227 2002-0020271-A1	August 13, 2001 February 21, 2002
Spring-Biased Brake Mechanism For Power Equipment	60/225,170	August 14, 2000
Brake Mechanism For Power Equipment	09/929,241 2002-0017180-A1	August 13, 2001 February 14, 2002
Brake Mechanism For Power Equipment	60/225,169	August 14, 2000
Retraction System For Use In Power Equipment	09/929,242 2002-0017181-A1	August 13, 2001 February 14, 2002
Retraction System For Use In Power Equipment	60/225,089	August 14, 2000
Replaceable Brake Mechanism For Power Equipment	09/929,236 2002-0020261-A1	August 13, 2001 February 21, 2002
Replaceable Brake Mechanism For Power Equipment	60/225,201	August 14, 2000
Brake Positioning System	09/929,244 2002-0017182-A1	August 13, 2001 February 14, 2002
Brake Positioning System	60/225,212	August 14, 2000
Logic Control For Fast-Acting Safety System	09/929,237 2002-0020262-A1	August 13, 2001 February 21, 2002
Logic Control For Fast-Acting Safety System	60/225,059	August 14, 2000

Title	Serial No./ Publication No.	Filing Date/ Publication Date
Motion Detecting System For Use In A Safety System For Power Equipment	09/929,234 2002-0017178-A1	August 13, 2001 February 14, 2002
Motion Detecting System For Use In A Safety System For Power Equipment	60/225,094	August 14, 2000
Translation Stop For Use In Power Equipment	09/929,425 2002-0017175-A1	August 13, 2001 February 14, 2002
Translation Stop For Use In Power Equipment	60/225,210	August 14, 2000
Translation Stop For Use In Power Equipment	60/233,459	September 18, 2000
Cutting Tool Safety System	09/929,226 2002-0017183-A1	August 13, 2001 February 14, 2002
Cutting Tool Safety System	60/225,208	August 14, 2000
Table Saw With Improved Safety System	09/929,235 2002-0017184-A1	August 13, 2001 February 14, 2002
Table Saw With Improved Safety System	60/225,058	August 14, 2000
Miter Saw With Improved Safety System	09/929,238 2002-0017179-A1	August 13, 2001 February 14, 2002
Miter Saw With Improved Safety System	60/225,057	August 14, 2000
Fast Acting Safety Stop	60/157,340	October 1, 1999
Safety Systems For Power Equipment	09/676,190	September 29, 2000
Fast-Acting Safety Stop (Taiwan)	143466	February 25, 2002
Fast-Acting Safety Stop	60/182,866	February 16, 2000
Safety Systems for Power Equipment (PCT)	PCT/US00/26812	September 29, 2000
Miter Saw With Improved Safety System	10/052,806 2002-0059855-A1	January 16, 2002 May 23, 2002
Miter Saw With Improved Safety System	60/270,942	February 22, 2001
Contact Detection System For Power Equipment	10/053,390 2002-0069734-A1	January 16, 2002 June 13, 2002
Contact Detection System For Power Equipment	60/270,011	February 20, 2001

Title	Serial No./ Publication No.	Filing Date/ Publication Date
Power Saw With Improved Safety System	10/052,273 2002-0059853-A1	January 16, 2002 May 23, 2002
Power Saw With Improved Safety System	60/270,941	February 22, 2001
Table Saw With Improved Safety System	10/052,705 2002-0056350-A1	January 16, 2002 May 16, 2002
Table Saw With Improved Safety System	60/273,177	March 2, 2001
Miter Saw With Improved Safety System	10/052,274 2002-0059854-A1	January 16, 2002 May 23, 2002
Miter Saw With Improved Safety System	60/273,178	March 2, 2001
Miter Saw With Improved Safety System	10/050,085 2002-0056349-A1	January 14, 2002 May 16, 2002
Miter Saw With Improved Safety System	60/273,902	March 6, 2001
Miter Saw With Improved Safety System	10/047,066 2002-0056348-A1	January 14, 2002 May 16, 2002
Miter Saw With Improved Safety System	60/275,594	March 13, 2001
Safety Systems For Power Equipment	60/275,595	March 13, 2001
Miter Saw With Improved Safety System	10/051,782 2002-0066346-A1	January 15, 2002 June 6, 2002
Miter Saw With Improved Safety System	60/279,313	March 27, 2001
Safety Systems for Power Equipment	10/100,211 2002-0170399-A1	March 13, 2002 November 21, 2002
Safety Systems For Power Equipment	60/275,583	March 13, 2001
Router With Improved Safety System	10/197,975 2003-0015253-A1	July 18, 2002 January 23, 2003
Router With Improved Safety System	60/306,202	July 18, 2001
Translation Stop For Use In Power Equipment	09/955,418 2002-0020265-A1	September 17, 2001 February 21, 2002
Translation Stop For Use In Power Equipment	60/292,081	May 17, 2001
Band Saw With Improved Safety System	10/146,527 2002-0170400-A1	May 15, 2002 November 21, 2002
Band Saw With Improved Safety System	60/292,100	May 17, 2001

Title	Serial No./ Publication No.	Filing Date/ Publication Date
Apparatus And Method For Detecting Dangerous Conditions In Power Equipment	10/172,553 2002-0190581-A1	June 13, 2002 December 19, 2002
Apparatus And Method For Detecting Dangerous Conditions In Power Equipment	60/298,207	June 13, 2001
Discrete Proximity Detection System	10/189,031 2003-0002942-A1	July 2, 2002 January 2, 2003
Discrete Proximity Detection System	60/302,937	July 2, 2001
Actuators for Use in Fast-Acting Safety Systems	10/189,027 2003-0005588-A1	July 2, 2002 January 9, 2003
Actuators For Use In Fast-Acting Safety Systems	60/302,916	July 3, 2001
Actuators For Use In Fast-Acting Safety Systems	10/205,164 2003-0020336-A1	July 25, 2002 January 30, 2003
Actuators For Use In Fast-Acting Safety Systems	60/307,756	July 25, 2001
Safety Systems for Power Equipment	10/215,929 2003-0037651	August 9, 2002 February 27, 2003
Safety Systems For Power Equipment	60/312,141	August 13, 2001
Safety Systems For Band Saws	10/202,928 2003-0019341-A1	July 25, 2002 January 30,2003
Safety Systems For Band Saws	60/308,492	July 27, 2001
Router With Improved Safety System	10/251,576 2003-0056853-A1	September 20, 2002 March 27, 2003
Router With Improved Safety System	60/323,975	September 21, 2001
Logic Control With Test Mode For Fast-Acting Safety System	10/243,042 2003-0058121-A1	September 13, 2002 March 27, 2003
Logic Control With Test Mode For Fast-Acting Safety System	60/324,729	September 24, 2001
Detection System for Power Equipment	10/292,607 2003-0090224-A1	November 12, 2002 May 15, 2003
Detection System For Power Equipment	60/335,970	November 13, 2001

Title	Serial No./ Publication No.	Filing Date/ Publication Date
Apparatus and Method for Detecting Dangerous Conditions in Power Equipment	10/345,030 2003-0131703-A1	January 15, 2003 July 17, 2003
Safety Systems For Power Equipment	60/349,989	January 16, 2002
Brake Pawls for Power Equipment	10/341,260 2003-0140749-A1	January 13, 2003 July 31, 2003
Brake Pawls For Power Equipment	60/351,797	January 25, 2002
Miter Saw With Improved Safety System	10/643,296	August 18, 2003
Miter Saw With Improved Safety System	60/406,138	August 27, 2002
Retraction System And Motor Position For Use With Safety Systems For Power Equipment	60/452,159	March 5, 2003
Table Saws With Safety Systems And Blade Retraction	60/496,550	August 20, 2003
Brake Cartridges For Power Equipment	60/496,574	August 20, 2003
Switch Box For Power Tools With Safety Systems	60/533,598	December 31, 2003
Motion Detection System For Use In A Safety System for Power Equipment	60/496,568	August 20, 2003
Improved Detection Systems For Power Equipment	60/533,791	December 31, 2003
Improved Fence For Table Saws	60/533,852	December 31, 2003
Improved Table Saws With Safety Systems	60/533,811	December 31, 2003
Brake Cartridges And Mounting Systems For Brake Cartridges	60/533,575	December 31, 2003
Improved Table Saws With Safety Systems and Systems to Mount and Index Attachments	60/540,377	January 29, 2004

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office to number (703) 872-9306, attention Examiner Boyer D. Ashley, on the date shown below.

Date: March 26, 2004

David A. Fanning